

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

OP.No. 480 of 1999(F)

PETITIONER:

E.S.JOSE, DIRECTOR,
A 2 Z BUILDERS PVT. LTD.,
P.T.USHA ROAD, ERNAKULAM,
COCHIN-682011.

BY ADV. SRI.N.N.SUGUNAPALAN
SRI.V.BOVAN CHERIAN VARKEY

RESPONDENTS:

1. TAHSILDAR, KANAYANNUR TALUK,
ERNAKULAM.
2. REVENUE INSPECTOR, ERNAKULAM.
3. VILLAGE OFFICER, ERNAKULAM.
4. REVENUE DIVISIONAL OFFICER,
FORT KOCHI.
5. STATE OF KERALA, REP. BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP NO.803/1999 IN O.P. NO.480/1999

DISMISSED:

19.11.2007

SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1 SERIES: TRUE COPIES OF PROPERTY TAX RECEIPTS NOS. FROM 35590 TO 42616 DT.3.10.96 AND 30.10.1996 (26 IN NUMBER) ISSUED BY THE CORPORATION OF COCHIN TO THE PETITIONER.

P2: TRUE COPY OF NOICE DT.9.3.98 ISSUED BY THE TAHSILDAR, KANAYANNUR TO THE PETITIONER.

P3: TRUE COPY OF NOTICE DT.16.7.98 ISSUED BY THE REVENUE INSPECTOR, ERNAKULAM TO THE PETITIONER WITH ENGLISH TRANSLATION.

P4:TRUE COPY OF NOTICE DT.15.9.98 RECEIVED BY THE PETITIONER FROM THE VILLAGE OFFICE, ERNAKULAM WITH ENGLISH TRANSLATION.

P5: TRUE COPY OF NOTICE DT.28.9.98 RECEIVED BY THE PETITIONER FROM THE VILLAGE OFFICE, ERNAKULAM WITH ENGLISH TRANSLATION.

P6: TRUE COPY OF THE PROCEEDINGS OF THE TAHSILDAR, KANAYANNUR DT.29.9.98.

P7: TRUE COPY OF ASSESSMENT ORDER DT.29.9.98 ISSUED BY THE TAHSILDAR TO THE PETITIONER WITH ENGLISH TRANSLATION.

P8: TRUE COPY OF THE REPRESENTATION DT.31.10.98 SUBMITTED BY THE PETITIONER BEFORE THE TAHSILDAR, KANAYANNUR.

P9: TRUE COPY OF REPRESENTATION DT.1.12.98 ALONG WITH ENCLOSURES SUBMITTED BY THE PETITIOENR BEFORE THE R.D.O., FORT KOCHI.

P10: TRUE COPY OF THE COMMUNICATION DT.13.11.98 RECEIVED BY THE PETITIONER FROM THE TAHSILDAR, KANAYANNUR.

P11: TRUE COPY OF REPLY DT.5.12.98 SUBMITTED BY THE PETITIONER TO THE TAHSILDAR, KANAYANNUR.

P12: TRUE COPY OF NOTICE DT.24.12.98 ISSUED BY THE VILLAGE OFFICER, ERNAKULAM TO THE PETITIONER WITH ENGLISH TRANSLATION.

P13: TRUE COPY OF NOTICE DT.30.12.98 ISSUED BY THE VILLAGE OFFICER, ERNAKULAM TO THE PETITIOENR WITH ENGLISH TRANSLATION.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....
O.P. No.480 of 1999
.....

Dated this the 19th day of November, 2007.

JUDGMENT

This court has consistently held that building tax assessments in deviation from returns filed should be completed through speaking orders giving reasons in support of demand of tax. The building assessed is a complex of 27 residential apartments. It is seen from Ext.P7 demand notice that tax is demanded for the building under the category "other buildings". Petitioner's case is that buildings are constructed with the funds of the owners of flats and therefore each and every flat has to be separately assessed. It is seen from Ext.P6 that assessment is completed for the whole building as a single unit because petitioner did not appear and produce records. Further, the Tahsildar also does not appear to have inspected the building even to satisfy the nature of building assessed. In the circumstances, I dispose of the O.P. cancelling Exts.P6 and P7 with direction to the Tahsildar to make fresh assessment after conducting inspection and after giving opportunity to the petitioner to produce details of construction and other particulars about ownership and nature of building. The Tahsildar is directed to complete adjudication within four

months from now. The petitioner is directed to produce copy of this judgment before the Tahsildar for compliance.

C.N.RAMACHANDRAN NAIR
Judge

pms